

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

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| IN RE: U S WEST COMMUNICATIONS, INC. | DOCKET NO. RMU-99-12 |
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ORDER DENYING PETITION FOR RULE MAKING

(Issued February 28, 2000)

On December 30, 1999, U S WEST Communications, Inc. (U S WEST), filed a petition for rulemaking pursuant to Iowa Code § 17A.7, and 199 IAC 3.3(1) requesting that the Board initiate a rule making proceeding to establish a policy to relieve incumbent local exchange carriers (ILECs) from the obligation to serve all eligible customers within an ILECs service territory in situations where another local exchange provider is already serving particular portions or areas of the ILECs traditional local exchange area.

Pursuant to the requirements of 199 IAC 3.4(2), the Board has reviewed the petition for rule making and has determined that it should be denied.

The proposed amendment to 199 IAC 22.1(5) follows (with the proposed amendment underscored):

Basic utility obligations. Each telephone utility shall provide telephone service to the public in its service area in accordance with the rules and tariffs on file with the board, unless one or more alternative telephone service providers are furnishing equivalent service to the customers in a particular area. Such service shall normally meet or exceed the standards set forth in these

rules governing "Rates Charged and Service Supplied By
Telephone Utilities."

According to its petition, U S WEST requests this rule making proceeding be utilized to establish and adopt rules in order to "relieve an ILEC from its obligations to serve all eligible customers in its service territory when another service provider provides facilities-based service in a particular area or portion of that ILEC's traditional service territory."

Currently, Iowa Code § 476.29(5) (1999) requires a local exchange utility to provide service to all eligible customers within its service territory. If a situation arises that makes the provision of service difficult or unreasonable to a local exchange utility, a request for a waiver of its obligation to serve all eligible customers within its service territory can be made.

This waiver process permits any local exchange utility to request that the Board grant it an exception while still permitting the Board to look at these exceptions based on factual circumstances. The statutory language shows an intent that in most situations the local exchange utility is obligated to serve all eligible customers within the utility's service territory, while recognizing that there might be certain situations where the Board should be permitted to grant a waiver after considering all the evidence.

Iowa Code § 476.29(5) (1999) currently provides an adequate remedy for any local exchange utility to seek to be relieved of its obligation to serve all eligible

customers in its service territory by requesting a waiver. This rule making is unnecessary.

IT IS THEREFORE ORDERED:

The petition for rule making filed on December 30, 1999, by U S WEST Communications, Inc., is denied.

UTILITIES BOARD

/s/ Allan T. Thoms

/s/ Susan J. Frye

ATTEST:

/s/ Raymond K. Vawter, Jr.
Executive Secretary

/s/ Diane Munns

Dated at Des Moines, Iowa, this 28th day of February, 2000